

**Michael Levine, Esq.**  
**Levine & Associates, P.C.**  
15 Barclay Road  
Scarsdale, NY 10583  
Telephone (914) 600-45288  
*Attorneys for Defendants Chofetz Chaim Inc.,  
Aryeh Zaks, Gittel Layosh Zaks, Eliyahu Layosh,  
Deborah Zaks Hillman, Yom T. Henig and Abraham Zaks*

Tracy L. Klestadt  
**KLESTADT WINTERS JURELLER**  
**SOUTHARD & STEVENS, LLP**  
200 West 41<sup>st</sup> Street, 17<sup>th</sup> Floor  
New York, NY 10036-7203  
Telephone (212) 972-3000  
e-mail: tklestadt@klestadt.com  
*Attorneys for Defendants Congregation Radin Development Inc.,  
Samuel Markowitz, Daniel Green and Steven Green*

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

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In re:

**MOSDOS CHOFETZ CHAIM INC.,** : Chapter 11  
Debtor. : Case No. 12-23616-rdd

----- X Post-Confirmation  
**AARON GEWIRTZMAN and AVROHOM GOTTHEIL,** :  
on behalf of themselves and all other similarly situated  
individuals, as congregants of the synagogue located at 1-60 : Adv. Pro. No. 21-7028  
Kiryas Radin Drive, Spring Valley, New York 10977,  
Plaintiffs, :  
- against - :  
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**CHOFETZ CHAIM INC., CONGREGATION RADIN** :  
**DEVELOPMENT INC., ARYEH ZAKS, GITTEL** :  
**ZAKS LAYOSH, ELIYAHU LAYOSH, SAMUEL** :  
**MARKOWITZ, DEBORAH ZAKS HILLMAN,** :  
**YOM T. HENIG, STEVEN GREEN, DANIEL GREEN,** :  
**ABRAHAM ZAKS and STERLING NATIONAL BANK** :

Defendants. :  
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**ORDER DISMISSING ADVERSARY PROCEEDING**

Plaintiffs having originally commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) in the Supreme Court of the State of New York, Rockland County on May 20, 2021, under Index No. 032789/2021 (the “State Court Action”), by way of the filing of a summons with notice, and the Defendants having removed the State Court Action to the United States District Court for the Southern District of New York on May 21, 2021, under Docket No. 21-4560-PMH, and the matter have been thereafter referred to the Bankruptcy Court by the District Court by way of Order dated May 24, 2021 [DE-1]; and the Defendants other than Defendant Sterling National Bank (collectively, the “Moving Defendants”) having served, on June 13, 2021, a written demand for a complaint [DE-6-2] pursuant to § 3012(b) of New York's Civil Practice Law and Rules (“CPLR”) on Gregory Bitterman, Esq. (“Mr. Bitterman”), counsel of record for Plaintiffs in the State Court Action; and the Court having issued a “Notice of Pre-trial Conference for a Removed Matter” on May 25, 2021 [DE-2] directing that a pre-trial conference would take place on July 16, 2021; and counsel for the Moving Defendants having given written notice to Mr. Bitterman on June 15, 2021 of the scheduled pre-trial conference and repeated the demand for a complaint pursuant to CPLR § 3012(b) and Rule 8 of the Federal Rules of Civil Procedure [DE-5-3]; and no complaint having thereafter been served or filed by Plaintiffs; and the Court having conducted the scheduled pretrial conference in the Adversary Proceeding on July 28, 2021, and no appearance having been made at that time by Mr. Bitterman or any other counsel for Plaintiffs; and the Court having been advised by counsel for Moving Defendant Chofetz Chaim, Inc. that he had contacted Mr. Bitterman and was advised by Mr. Bitterman that he would not be representing Plaintiffs in the Adversary Proceeding, and the Court having thereafter notified Mr. Bitterman that he would remain counsel for Plaintiffs in the Adversary Proceeding absent a motion for leave to withdraw and an order granting such a motion, and the Court having received no response to that notification, and no motion for leave to withdraw having thereafter been filed by Mr. Bitterman;

and the Moving Defendants having filed, on August 13, 2021, a Joint Motion to Dismiss the Adversary Proceeding [the “Motion,” DE-6]; and the Court having scheduled a hearing on the Motion for November 1, 2021 (the “Hearing”), and due notice of the Motion and the Hearing having been separately served on Mr. Bitterman on August 13, 2021 and August 16, 2021 [DE-8 and DE-9]; and the Court having conducted the Hearing on November 1, 2021; and no written objection or opposition to the Motion having been filed as of the date of the Hearing, and no appearance having been made at the Hearing by Mr. Bitterman or any other attorney representing Plaintiffs, or by any Plaintiff *pro se*, and the Court having been advised by counsel for the Moving Defendants that no written objection or opposition to the Motion had been received by either of them [DE-10]; and after due deliberation having been had with respect to the Motion, for the reasons set forth on the record at the Hearing the Court having determined that the Motion should be granted for failure to timely serve a complaint; now, therefore, it is hereby

**ORDERED** that the Motion is granted, the Adversary Proceeding is dismissed, and the Clerk of the Court is directed to terminate the Adversary Proceeding as of record; and it is further

**ORDERED** that the Court shall retain exclusive jurisdiction to resolve all matters relating to, or arising in connection with, the interpretation, enforcement and/or implementation of this Order.

Dated: White Plains, New York  
November 2, 2021

/s/Robert D. Drain

Hon. Robert D. Drain  
United States Bankruptcy Judge